

## **REMARKS**

This paper responds to the Office Action dated July 1, 2004. A diligent effort has been made to respond to each of the rejections contained in the Office Action. It is believed that this Amendment overcomes those rejections and thus places this case in condition for allowance. Reconsideration is respectfully requested.

Claims 13, 21, 26 and 30 are cancelled. The remainder of claims 1-43 remain in the application.

The claims were rejected under 35 USC 102 or 103 over US 6,446,111 to Lowery, taken alone for the 102 rejections, or over Lowery as the primary reference for the 103 rejections. All of these rejections must be withdrawn, however, in view of the attached Declaration of Prior Invention under 37 CFR 1.131.

The prior Declaration of Prior Invention was objected to by the Examiner on several grounds. A new Declaration of Prior Invention, along with a secondary Declaration in support thereof is submitted herewith in order to overcome these objections.

The Examiner made three primary objections to the first Declaration. First, in paragraphs 2-5 the Examiner objected to the lack of specificity in the Declaration and requested that applicants give a clear explanation of the exhibits pointing out exactly what facts are relied upon by the applicant. The new Declaration includes a detailed claim chart (Tab D), which specifically links the exhibits (Tab A) to the pending claims in this application in order to demonstrate possession of the claimed invention prior to the effective date of Lowery. It is believed that this claim chart satisfies the Examiner's objections in paragraphs 2-5 of the Office Action.

Second, in paragraph 6 of the office action the Examiner objected to the fact that the applicant failed to provide any evidence that the primary exhibit (Tab A) was derived from the

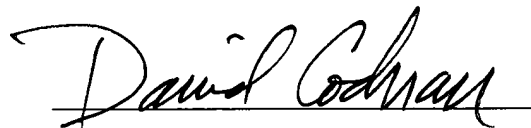
applicant's work. Attached hereto is a Declaration in Support of Declaration of Prior Invention under 37 CFR 1.132, executed by Mr. Gary Mousseau. Mr. Mousseau authored the document at Tab A and has declared that those portions of the document relied upon in Mr. Yach's Declaration of Prior Invention were, in fact, derived from the work being done at the time by Mr. Yach and others under his direction.

Finally, the Examiner objected to the evidence at Tab B of the original Declaration, which proved that the applicant was diligently working on the invention during the period between Lowery's effective date and the filing of this application. Specifically, the Examiner objected to the lack of explanation for the materials at Tab B and how they show diligence. The new Declaration has been expanded to overcome the Examiner's objections by explaining in more detail exactly what is shown by the document at Tab B and how it establishes diligence. Moreover, the new Declaration also discusses the activities ongoing during this same period of time to prepare and file the provisional application to which this application claim priorities.

With Lowery removed as a reference, there are no remaining rejections pending, and thus applicants submit that the application is in condition for allowance.

Respectfully submitted,

JONES DAY

A handwritten signature in dark ink, reading "David Cochran", written over a horizontal line.

David B. Cochran  
(Reg. No. 39,142)

Jones Day  
North Point, 901 Lakeside Avenue  
Cleveland, Ohio 44114  
(216) 586-7506